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## DEFECTS IN LEGISLATION.

BY HON. LEWIS H. MACHEN, Alexandria, Va  
(Continued from October Number.)

In a former paper it was suggested that the provisions of the present constitution, intended to prevent hasty and ill-considered legislation, had failed to accomplish their purposes, and that different provisions, allowing the legislature to sit for ninety days, with pay, for its regular sessions, and prohibiting the introduction of bills after the first sixty days, would go far toward allowing opportunity for thorough examination and discussion.

As an indication of the speed with which legislation is done during the latter days of a session of the legislature, reference may be made to the published acts of 1904. That session began on January 13th, and practically ended on March 12th. There were three hundred and sixty-two acts passed during the session. Out of this number forty-one became laws in February and three hundred and twenty-one from March 1st to March 15th, inclusive. It is safe to say that no less than three hundred of these acts were passed during the last fifteen days of the session. The evils which result from such legislative stampeding cannot fail to be serious. It is absurd to suppose that these measures, with rare exceptions, receive the consideration which they deserved. Any large business corporation which enacted by-laws in such a fashion would be a menace to its stockholders.

Furthermore, it is a hardship upon any governor to require him to examine several hundred bills in a few days. Should he discover serious objections to any piece of legislation, he will find the utmost difficulty in securing the attention of the members during the crowded hours of the end of the session. The imperfections which result from this mode of making laws are sufficiently numerous and obvious. The number of really salutary measures

which fail of passage for lack of time to consider them cannot be known. As already remarked, it is no cause for wonder that there should be so many defective laws enacted, but to those acquainted with the difficulties already mentioned, it seems scarcely less than a miracle that those defects are not far more serious.

The diagnosis avails little unless a cure is in sight. Perhaps the most effective remedy would be the constitutional amendment above indicated. The fact that such a provision has never been tested in any of our state or national legislatures does not prove that it would not work well. But constitutional amendments are tedious and difficult of attainment, and in this case, perhaps one might not be obtainable.

The next best thing would be an agreement among the members of the legislature to sit thirty days without pay, and without allowing the introduction of bills during that period. It is safe to say, however, that only in rare cases, say, once or twice in a century, will a quorum of the legislature feel justified in making such a sacrifice.

Next in order of desirability would be a joint resolution, passed at the beginning of the session, to permit no bills to be introduced after the first thirty or forty days of the session. Of course, such a resolution could be rescinded if any real emergency should arise. Unfortunately, experience has shown the extreme difficulty of adhering to a resolution of this kind, even for the last two or three days of the session.

When the members of the legislature have, in some way, provided full opportunity for a careful examination and thorough discussion of proposed legislation, a long step will have been taken in the direction of better laws. Criticism, perhaps, will be not less severe, but it will certainly be less deserved.

Another great preventative of unwise legislation is publicity. The people are demanding, and with justice, that they be taken more fully into the confidence of legislators. In the Western states this demand has grown into a desire that the people, through the initiative and *referendum*, take a hand directly in certain classes of legislation. No student of public sentiment in this state can fail to notice an increasing anxiety for information upon legislative matters. As an effort to supply this want there was introduced

into the senate during the last session of the legislature a bill to provide for the publication of the "Legislative Record," which was to be issued daily at the seat of government during every session of the general assembly; which would contain a copy of every bill introduced into either branch of the general assembly, unless otherwise specially ordered, a copy of every such bill which had become a law, such parts of the journals of the house and senate, and a copy of such other documents as might be ordered to be printed therein by resolution of either branch of the general assembly. It was provided that one copy of such periodical should be furnished daily to the members of both branches, to all state officers, and to the editor of any Virginia newspaper who should apply therefor, and to such other persons as should pay a subscription price of two dollars for each regular session. This bill was reported favorably by the committee on printing, but it was never acted upon by the senate, owing to lack of time and pressure of other business. It is not improbable that a similar bill will be offered at the next session of the general assembly.

It is submitted that such a publication would serve many useful purposes. In the first place, it would bring daily to the attention of every member of the legislature exactly what was being proposed in both branches, and in such form that he could conveniently read it. In the house of delegates bills are not printed until they have been reported by a committee. Persons desiring copies of them must secure the original from the clerk and have copies made at his own expense. The senate bills are printed as soon as introduced, but they are tucked away by the senate pages in the files of the senators, by whom they are frequently overlooked. Neither house has any convenient mode of knowing what is being proposed in the other house. Frequently the members have very little knowledge as to what is being proposed in their own houses.

What shall be said of the knowledge the general public obtains of proposed laws? Very, very few bills are ever published in full in the newspapers,—certainly not over three per cent. The rest are indicated merely by their titles, and perhaps by brief synopses. The result is that the public has a vague idea that something is being proposed on this subject or that, and those who are

interested in that particular subject write to their senator or delegate for copies of the bill, and the representative is obliged to turn himself into a circulation bureau, and endeavor, in some way, to secure the desired copies. People generally can never be made to understand that copies of all bills are not always at hand ready for quick and easy distribution. It would be a great relief to the members if the superintendent of public printing were able to forward the desired copies of bills at a moderate cost.

There has always been more or less distrust of the legislature in certain quarters in large measure, because there is no way for the people of the state to learn what laws are being proposed until long after the legislation has been enacted. During every session of the legislature bills are introduced, to a greater or less extent, affecting every kind of business, trade and industry in the state. It not infrequently occurs that large property rights are seriously affected by a law. In the courts one cannot take from a man a single dollar, however justly due, without ample notice and full opportunity to be heard; yet the legislature can take from a citizen many dollars in the form of taxation, or can impose other burdens upon his person and property without his knowing, or even suspecting, that such a thing is contemplated. It sometimes happens that after the legislature has adjourned it is discovered that some law has been passed which was not sought or desired by the people at large. It is then too late to remedy the evil until another session of the legislature shall repeal the law, unless the courts can find some ground for declaring it invalid.

To those who hold that public opinion is a wholesome force it would appear highly desirable that some method be devised to allow this force to operate effectively upon the making of laws.

Everyone who has observed legislation with care must have learned that it is an evolution. An idea will first appear in a crude form, and, having been gradually developed, will, by degrees, commend itself to the public until finally there is a demand for its enactment into law. Whatever facilitates this evolutionary process hastens the coming of improved legislation. The collection of measures proposed from session to session, and preserved in such form as to be at all times accessible to officials, newspapers, and to the public generally, cannot fail to aid that process.

Every member of the legislature who is not blinded by his own egotism has seen how valuable are suggestions made by intelligent constituents. It can scarcely be doubted that if all the thinking men of the state had an opportunity to examine proposed laws they could and would suggest improvements and point out defects which, in the hurry of business, might never occur to the legislators themselves. Surely, no conscientious member would fail to avail himself gladly of any such suggestions. If at any time there should chance to be a legislator not strictly conscientious, it might be of advantage to the public to have an opportunity to inspect his work before it slips through the mill under a suspension of the rules.

Whenever bills of a general nature shall be published in such form as to come directly to the attention of every member of the legislature, of all the chief officers of the state, of the editors of all the newspapers published therein, and to be preserved for all time among the public archives, who can doubt that much will be accomplished towards the preventing of bad legislation and the enactment of that which is good?

It is not easy to see how any worthy measure could be injured by its widespread publication. On the other hand, it is quite apparent that such publication would greatly discourage questionable legislation. The fullest light upon such matters is none too illuminating. It is reasonably certain that the larger corporations will have their agents and attorneys at the capitol during every session of the legislature, to carefully inspect every bill which may possibly affect their interests. It is the smaller corporations and the great mass of the business people of the state who remain in ignorance of what is to befall them. It is in their interests that some means of fuller publication should be provided.

It does not seem doubtful that a sufficient number of subscribers would come forward to defray the cost of this publication. But even though it should require the outlay of a few thousand dollars by the state, it is not perceived in what way the money so expended could be more profitably invested.

The publication of the acts of the assembly immediately upon their becoming laws would seem to be imperatively necessary. There is no way by which the courts and officers of the state can

accurately learn what new laws have been passed until the bound copies of the acts are distributed several months after the adjournment of the legislature. Section 53 of the constitution provides that "no law, except a general appropriation law, shall take effect until at least ninety days after the adjournment of the general assembly at which it is enacted, unless in case of an emergency (which emergency shall be expressed in the body of the bill) the general assembly shall otherwise direct by a vote of four-fifths of the members voting in each house, such vote to be taken by yeas and nays, and the names of the members voting for and against entered on the journal." This was evidently intended as a remedy for the evils just mentioned but it contains within itself the means of its own undoing. Of the three hundred and sixty-two bills enacted last session, one hundred and seven were declared to be emergency acts and went into force from their passage. Most of these were in force three or four months before there was any adequate publication of them. How the courts, officials, lawyers, and citizens generally can know what the law is during a session of the legislature, and soon thereafter, is a question to which, under present conditions, there can be found no answer. The immediate official publication in convenient form of each law as soon as passed, is the only solution of the difficulty.

There are many messages of the governor, reports of officers and committees, and other public documents which should have currency by means of some official bulletin. The votes of members of the legislature upon legislation of a general and public character should be given publicity in some reliable manner. To these purposes the press does not seem to have been entirely adequate.

It must be noted that there is no inclination to displace newspaper reports of legislative proceedings. On the contrary, it is desired to assist in making these reports more full and accurate. It is impossible for the majority of the country newspapers to have daily reports sent to them from Richmond, and they are therefore compelled to get their information from other papers. The press of this state is a very real and forceful power and everything should be done to cause that power to be exerted judiciously and effectively.

These suggestions are offered with a full realization of the com-

plexity of the problem presented and without assurance that an adequate solution has been offered.

If the bar of the state, upon whom the responsibility of making laws must, to a great degree, always devolve, will apply their combined wisdom to ascertaining how these laws may best be made, there will be ground to hope for much improvement.

In spite of some adverse criticism, and not a little ridicule, it may be said that the Virginia legislators, with few exceptions, are gentlemen of high character and excellent abilities who sincerely desire to do their full duty toward the whole people of the state. It seems only just to them that they should be permitted to do their work under the most favorable conditions, with every possible assistance and in such a way that the people of the state may learn of that work, whether it be good or evil. No member of either branch of the general assembly who is conscious of the purity of his motives should object to having the fullest scrutiny thrown upon his public labors. His only ambition should be to improve the legislation of his state until its laws shall have become the pride of its citizens and the envy of other states.